

08/973, 303


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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

 This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS
**OFFICE ACTION SUMMARY**

- ☐ Responsive to communication(s) filed on 11/28/97 and 6/11/98
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11, 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 30 days months, or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

- ☒ Claim(s) ~~1-70~~ 36-70 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) ~~1-70~~ 36-70 are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

***Election/Restriction***

**Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at Donald.Adams@uspto.gov or 703-308-0570. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

1. Claims 1-35 have been canceled.  
Claims 36-70 have been added.
2. Restriction is required under 35 U.S.C. 121 and 372. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 CAR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 36-47, 62, 66-70, drawn to a protein and pharmaceutical compositions of said protein. Please note that claim 62, drawn to a "therapeutic means, characterized in that said means contains a protein ... according to claim 36" is interpreted to be drawn to a pharmaceutical composition of the protein of claim 36.

Group II, claim(s) 48-56, 58-61, 63-65, drawn to polynucleotide, vectors and host cells comprising said polynucleotide and pharmaceutical compositions of said polynucleotide. Again, claims 58-61, drawn to "therapeutic, diagnostic or experimentally useful means, characterized in

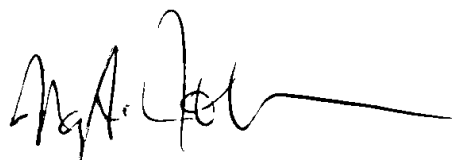
that said means contains .... at least one nucleic acid ... encoding the protein ... according to claim 36" is interpreted to be drawn to a pharmaceutical composition of the claimed polynucleotide.

Group III, claim 57, drawn to antibody.

3. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The inventions of Groups I-III are structurally and functionally different products which are made by different methods and have different uses.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CAR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CAR 1.48(b) and by the fee required under 37 CAR 1.17(I).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy Johnson whose telephone number is (703) 305-5860.

A handwritten signature in black ink, appearing to read 'Nancy Johnson', with a long horizontal flourish extending to the right.

Nancy Johnson, Ph.D.

Patent Examiner, Group 1642

August 5, 1998



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

DATE:

FROM/ATTORNEY:

FIRM:

PAGES, INCLUDING COVERSHEET:

PHONE NUMBER:

TO EXAMINER: Nancy A. Johnson, Ph.D.

ART UNIT: 1642

SERIAL NUMBER:

FAX/TELECOPIER NUMBER: (703) 305-3704

**PLEASE NOTE: THIS FACSIMILE NUMBER IS TO BE USED ONLY  
FOR RESPONSES TO RESTRICTIONS.**

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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